

EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS

Richard K. Sullivan, Jr., Secretary
Grant Announcement



Request for Responses (RFR) EEA 12 DCS 04

Posting Date: August 30, 2011

Revision Posting Date: October 18, 2011

Drinking Water Supply Protection Grant
FY 2012

1. GRANT OPPORTUNITY SUMMARY:

A. PROPOSALS SOUGHT FOR: Financial assistance to public water systems and municipal water departments for the purchase of land in existing DEP-approved drinking water supply protection areas, or land in protection areas of identified and planned future water supply wells or intakes, or land identified and planned to be used for groundwater recharge to an aquifer.

B. OVERVIEW AND GOALS: The Executive Office of Energy and Environmental Affairs (EEA) protects, conserves, and restores the natural resources of the Commonwealth. To fulfill this mission, Richard K. Sullivan, Jr., Secretary of EEA, announces the FY 2012 Drinking Water Supply Protection (DWSP) Grant Program. This grant provides funds to assist public water systems and municipal water departments in protecting and conserving the quality and quantity of public drinking water supply sources in the Commonwealth. This is a reimbursement program.

C. ELIGIBLE PROJECTS:

- 1) Purchase of land in fee
- 2) Purchase of a Conservation Restriction (CR)

See further detail on eligible projects in section 2B.

D. ELIGIBLE APPLICANTS: This RFR is open to municipalities and non-profit public water systems (PWSs) authorized by the Commonwealth to provide drinking water to the public. The Massachusetts Water Resources Authority and state agencies are not eligible for funding. See further detail on eligible applicants in section 2A.

E. APPLICATION DEADLINE: Tuesday, November 1, 2011 at 3:00pm.

See further detail on deadlines and grant program calendar in section 4.

F. FUNDING AVAILABILITY: Maximum reimbursement available: \$500,000.

See further detail on funding availability in section 2E.

G. BUDGET REQUIREMENT: Applicants selected to receive grant funding must show authorization to expend funds equal to the total project amount, and to accept the grant award. They must show the use of funds from non-state sources for their portion of the program. Only approved project costs incurred within the contract period will be eligible to receive reimbursement. See further detail on budget requirement in section 2F.

H. TOTAL ANTICIPATED DURATION OF CONTRACT(S): The contract period will begin on the date that the

Secretary or designee signs the contract. Contracts issued pursuant to this RFR must purchase the property and expend 100% of the approved project costs on or before the end of the fiscal year (June 30, 2012) in order to be eligible for reimbursement. **All requests for reimbursement must be submitted by July 13, 2012.** See further detail on anticipated duration of contract(s) in section 2F.

I. REGULATIONS, STATUTES, OR AUTHORIZATION GOVERNING THIS GRANT PROGRAM: This RFR is issued according to M.G.L. C. 40, §38, 39B, and 41. It is funded through Chapter 312 of the Acts of 2008, § 2A, 2200-7017. All properties for which grant assistance is provided will become protected open space under Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, dedicated to water supply use. This program provides funding for acquisitions of interests in land only; funding through the DWSP program does not take the place of or constitute approval of any proposed development of new drinking water sources or groundwater recharge or wastewater discharge. Applicants must adhere to all relevant DEP regulations and approval processes.

J. CONTACT INFORMATION: Celia Riechel
Executive Office of Energy and Environmental Affairs
100 Cambridge Street – Suite 900
Boston, MA 02114
617-626-1187
<http://www.mass.gov/envir/>

2. Performance and Contract Specifications

A. ELIGIBLE APPLICANTS: Municipalities and non-profit public water systems (PWS). The MA Water Resources Authority and state agencies are not eligible for funding through this grant program

B. ELIGIBLE PROJECT(S)/SCOPE(S) OF WORK:

EEA seeks to further the conservation of suitable water supply land within the Commonwealth. Applications may be to purchase land in fee simple or a Conservation Restriction.

- Multiple applications will be accepted from the same entity. Landholdings that are in a single, contiguous tract may be packaged in the same application. Unrelated, separate landholdings must be submitted as individual applications.
- Municipalities may apply for funds to protect drinking water supply land on behalf of any PWS, provided that the majority of the land (50% or more) is located within a drinking water supply area.
- Municipalities may apply for funds to protect water supply land that is partially or wholly located within another municipality.

Eligibility:

Applicants must have:

1. **Authorization to acquire the property**, expend funds, and accept the grant award.
Municipalities and public water systems: obtain authorization from town meeting or city council vote.
Non-municipal public water systems: obtain authorization through a vote of their Board of Water Commissioners.
2. **DEP approval** of the acquisition of land for public drinking water supply purposes, pursuant to M.G.L. C. 40, § 38,39B, and 41. Under this program, a grant award is acknowledgement of DEP approval, however, it must be finalized through a public hearing. Details will be provided to

applicants selected for an award.

3. **No unresolved protected open space conversion issues** with EEA (see EEA Article 97 Disposition Policy at: www.mass.gov/Eoeea/docs/eea/dcs/DCSArticle97.pdf).
4. **No current enforcement orders** or orders of non-compliance.

The Property must:

1. **Be primarily located in a drinking water supply protection area.** Fifty percent (50%) or more of the parcel(s) to be acquired must be located in an identified drinking water supply protection area.
 - Existing wells or intakes: must be located in a DEP-approved Zone I, II, or III (groundwater) or Zone A, B or C (surface water).
 - Future wells or intakes: property must be located within the estimated Zone I, II, or III or Zone A, B, or C of planned well or intake locations, or within the estimated Interim Wellhead Protection Area (IWPA). The future well or intake must have been identified as of value for future water supply use through an appropriate planning process. Appropriate processes include direct testing, or locally developed and accepted plans such as: drinking water resource management plan, integrated water resource management plan, wastewater resource management plan, regional watershed plan, water assets report, or an analysis of lands utilizing the water assets GIS screening methodology. Documentation of this planning must be submitted with the application.

Note that lands recognized for future value that have been tested and included in an application to DEP for a site exam under the new source review approval process will receive preference in this category.
 - Groundwater recharge areas: property must be predominantly classified as hydrologic soil Groups A or B, with an infiltration rate of less than 30 minutes per inch (more than 2 inches per hour), otherwise suited to the purpose, and have been identified through an appropriate planning process as a priority for groundwater recharge and likely to be suitable for such purposes (see § VI in *Guidelines for the Design, Construction, Operation, and Maintenance of Small Wastewater Treatment Facilities with Land Disposal*, available from DEP, and 314 CMR 05, for site evaluation and criteria for discharge). Documentation of this planning must be submitted with the application.

Ineligible recharge projects:

1. Projects to acquire land for groundwater recharge that lie within Zone I or Zone A, and other activities specifically restricted in 314 CMR § 5.06.
2. Projects with soils that are predominantly classified as hydrologic soil Groups C or D (silty clay loam, silty clay, or clay), as classified by the USDA Natural Resources Conservation Service (NRCS). In cases of incomplete or potentially inaccurate NRCS soil data, applicants may procure an independent soil analysis; if NRCS has classified the project parcel(s) soils as Group C or D, the results of the independent analysis must be included in the application.
3. Projects with an average site infiltration rate of greater than 30 minutes per inch (2 inches per hour).
4. Projects with less than a one year travel time to the nearest public drinking water supply well.

Note: this grant does not provide funding for infrastructure planning, design, or construction.

For reference and additional information, see the USDA Natural Resources Conservation Service's Web Soil Survey (<http://websoilsurvey.nrcs.usda.gov/app/HomePage.htm>) or Hydrology Engineering Handbook Chapter 7, Hydrologic Soil Groups (<http://directives.sc.egov.usda.gov/OpenNonWebContent.aspx?content=17757.wba>).

2. **Not include Zone I designated after 1990.** Parcels located in a Zone I are eligible to receive funding only if well construction was approved by DEP prior to June 6, 1990. Parcels including Zone I land for wells approved after this date may receive funding for Zone II and III portion. The appraiser should estimate the value of the Zone I area and subtract this from the total property value.
3. **Not be already permanently protected.** This includes properties protected under Article 97 either through an EEA grant program (Local Acquisitions for Natural Diversity (LAND), Parkland Acquisition or Renovation for Communities (PARC), Conservation Partnership); a Conservation Restriction (CR); Agricultural Preservation Restriction (APR); or other land protected under Article 97. Lands enrolled in Chapter 61, 61A or 61B are not classified as permanently protected land and are eligible to receive funding.
4. **Not already be owned by the municipality.** Only property purchased *after* receiving an executed contract from EEA will be reimbursed. Land already owned by the municipality is not eligible.
5. **Not take agricultural land out of production:** Executive Order #193 discourages the irreversible conversion of the Commonwealth's productive agricultural land base. The DWSP grant will not be used to convert agricultural land to other uses when feasible alternatives are available.

In the event that all feasible alternatives have been explored, and the conversion of agricultural lands to non-agricultural use remains the only feasible action to protect the quality and quantity of public drinking water supplies, a mitigation plan (typically involving the creation and/or permanent protection of agricultural land in an area less-sensitive area, or payment into a Department of Agricultural Resources (DAR) fund for farm conservation) must be developed to be eligible for reimbursement under a state grant. Any project that would convert agricultural lands should consult with DAR at (617) 626-1700 prior to submitting an application.

Allowable uses:

Property acquired with the help of funds from this program must allow for appropriate passive public use, consistent with 310 CMR 22.00. Each property's unique characteristics will guide what activities are appropriate. The specific mix of permitted uses is determined by the grantee, with EEA approval.

Permitted uses: Water supply, conservation, passive recreation, limited agriculture and/or forestry.

Examples: hiking, hunting, skiing, wildlife viewing, educational programs, selective timber management under an approved forest management plan, haying.

Prohibited uses: Active recreation, intensive agriculture, or developed uses; uses prohibited in 310 CMR 22.00.

Examples: athletic fields, motorized vehicles, row crops, feedlots, clear-cutting, pools, play structures, golf courses, buildings.

Article 97 Reminder: Any property acquired with EEA grant assistance is permanently protected open space, dedicated to water supply protection in accordance with M.G.L. Chapter 40, § 38, 39B, 41 and 15B, and Article 97 of the Amendments to the Massachusetts Constitution. It must be placed under the control of the Board of Water Commissioners (or Board of Selectmen authorized as such) of the applying municipality or water district. No major alteration of this property, or changes in the proposed uses, can take place without the prior approval of the Secretary of EEA, approval by both houses of the Massachusetts Legislature, and Governor, and appropriate mitigation.

Previously developed land, greyfields, & brownfields:

Communities may receive DSWP funding to acquire property that is in need of some undevelopment,

remediation, or other environmental restoration, and are encouraged to submit applications for such projects. However, properties must be adequately remediated prior to reimbursement. This will require careful planning and timely action on the part of the applicant community to finish by the end of the contract period.

‘Brownfield’ is defined as a property where real or perceived environmental contamination complicates redevelopment or reuse efforts. These properties are typically abandoned or underutilized commercial or industrial sites, though other land uses may also be brownfields. In many cases, these sites have been reported to the Massachusetts Department of Environmental Protection (DEP) because contamination has been found (to find out, go to <http://db.state.ma.us/dep/cleanup/sites/search.asp>). In other cases, sites may not have been assessed due to insufficient resources or fear of liability for possible contaminants.

‘Greyfield’ is a term used to describe lands that are in some state of development that is outdated, underutilized, failing, or vacant. Examples include old parking lots or vacant strip malls.

Developed, previously developed, greyfield, or brownfield sites which the applicant intends to restore are eligible for acquisition under the DWSP grant program. To be considered, the applicant must:

1. If the site has been reported to DEP under M.G.L. C. 21e, include in the application a copy of the most recent environmental site assessment report (Massachusetts Contingency Plan (MCP) Phase I or Phase II). These reports are available online and/or are on file with the appropriate DEP regional office (locate your regional office here: <http://www.mass.gov/dep/about/regional.htm>). If the site has not been reported to DEP, the most recent ASTM Phase I or II site assessment report may be substituted.
2. Demonstrate their ability to complete any remaining required environmental response actions through the submission of a budget outlining sources of assessment/remediation funding and a timeline for completion. If another liable party (e.g., the current owner or a causally-responsible party) will be completing any required response actions after the property is transferred, include any legal agreements to that effect. If selected to receive funding, the applicant must submit a site-specific environmental cost estimate (or MCP Phase III Completion Report including a cost estimate) from a Massachusetts Licensed Site Professional (see <http://db.state.ma.us/dep/lsp/lspsearch.htm> for a list of LSPs).
3. Ensure that the site achieves closure under M.G.L. 21e through either a Response Action Outcome (RAO)* or Remedy Operation Status (REMOPS) prior to the end of the fiscal year for which the DWSP grant is awarded. Site closure must precede opening the property to the public. (For text of M.G.L. 21e legislation, see: <http://www.mass.gov/legis/laws/mgl/gl-21e-toc.htm>). Remediation must be appropriate for the intended water supply use as described in the Project Narrative.
4. Submit a copy of all Activity and Use Limitation (AUL) deed clauses with the RAO. AULs can indefinitely exclude certain land uses based on the level of remediation attained at a site or portion of a site. If there are AULs associated with the site, the management plan must demonstrate that it accommodates them without significantly compromising public access.
5. **Remediation MUST be completed to the full satisfaction of EEA before an applicant will receive reimbursement.**

Assessment and remediation costs are not eligible for reimbursement under the DWSP grant program. More information on brownfields, state and federal brownfields grant and loan programs and liability protection is available from DEP at: <http://www.mass.gov/dep/cleanup/brownfie.htm>. EEA reserves the right to not reimburse applicants for projects where site remediation is unsatisfactory.

C. APPRAISAL REPORTS: Applications must include the appropriate type of appraisal with the application, and must be received by the application deadline. Appraisals must be dated no earlier than one year prior to the application due date. **Applications lacking the correct appraisal(s) will not be funded.** See Attachment B for detailed appraisal specifications.

1. Parcels with an estimated value of between \$50,000 - \$750,000:
One full narrative appraisal by a certified or licensed real estate appraiser.
2. Parcels with an estimated value over \$750,000:
Two full narrative appraisals or one full narrative appraisal and one review appraisal by certified or licensed real estate appraisers.
3. Parcels with an estimated total value of \$50,000 or less:
One full narrative appraisal, contracted market analysis, or opinion of value by a certified or licensed real estate appraiser.

NOTE: The Applicant or one of the Applicant's project partners must be the client for the appraisal, market analysis, or opinion of value. The owner of the property cannot be the client, and cannot donate money to cover the cost of the appraisal(s).

D. EVALUATION CRITERIA: Each application will be scored using the criteria below. See the full application in Attachment A for more detailed description.

- **Project quality – 70 points**
- **Resource management and community planning – 20 points**
- **Demographics – 10 points**

A project Selection Committee composed of EEA and DEP staff members will review all applications. After completing preliminary review, site visits, and rating, the Selection Committee will make funding recommendations.

E. FUNDING AVAILABILITY, BUDGETING GUIDELINES & ALLOWABLE EXPENDITURES:

Reimbursement rate: 50% of the total approved project cost
Maximum award amount: \$500,000

Applicants must submit the appropriate type of appraisal(s) (see Section 2D), an itemized budget including estimated total project cost, and a specific grant request. The maximum award for any single project may be increased at the discretion of the Secretary.

Eligible project costs: Costs eligible for reimbursement include all approved project costs incurred on or after a selected Applicant's contract execution date and on or before June 30, 2012.

Project costs eligible for reimbursement include *only*:

Property acquisition	Recording fees
Title research and certification	Survey or plan of land

Ineligible project costs: Costs that are ineligible for reimbursement include, *but are not limited to*:

Staff salaries	21E compliance fees
Legal fees other than title research & certification	Brownfield cleanup costs
Application preparation	Equipment or goods
and submission costs	Appraisal
Buildings, pumps, or other infrastructure	

All contracts shall be subject to available funding, whether through the appropriation and authorization of sufficient funds or the receipt of sufficient revenues. If available funding ceases for any reason, a contract shall be deemed under suspension and contract performance must halt. A contractor will not be entitled to compensation for any performance provided during the period of contract suspension. EEA may lift the suspension if additional funding is received. In the absence of foreseeable available funding, EEA may terminate the contract.

F. BUDGET REQUIREMENT: Applicants selected to receive grant funding must show the use of funds from non-state sources, such as other grants from private or non-profit foundations, and cash contributions from local partners or individuals. As the DWSP program is a reimbursement grant program, EEA can only reimburse on the total amount spent, *as shown by cancelled checks, transfer statements, and Treasurer's statement from the Grantee*. All funding sources must be deposited into a municipal/PWS account first. Funds from other state grant programs, with the exception of Community Preservation Act (CPA) payments, may not be paired with this grant. Federal funds, including those administered by state agencies, may be used, with the exception of the Land and Water Conservation Fund. Only those eligible project expenses incurred within the contract period are eligible for reimbursement.

G. PROJECT TERMS: Grantees must abide by the Standard Commonwealth of Massachusetts Terms and Conditions and the EEA Supplemental Terms and Conditions. All contracts are subject to successful negotiation of a Final Scope of Services. EEA does not guarantee that any contracts may result from this RFR, or that any particular funding level will be awarded. It is anticipated that projects could commence immediately upon EEA's announcement. The awarded contracts will be reviewed during their course and, upon request by the Contractor, may be extended or otherwise amended at the sole discretion of EEA.

H. ANTICIPATED DURATION OF CONTRACTS: Contracts will end on June 30, 2012. Extension of a contract is at the sole discretion of EEA.

I. DELIVERABLES, OWNERSHIP, AND CREDIT DUE: Acquisitions resulting from this RFR must be held by the municipal water department or public water supplier.

J. REPORTING: No interim reports are required, however, grantees are subject to contract performance review by the EEA grant administrator without advance notice.

K. INVOICING: The DWSP program is a **reimbursement** program. Applicants selected to receive grant funding will be required to submit a State Standard Contract and billing forms. These forms will be sent to Grantees with their contract. See the full application packet for more information. Land must not be purchased until after the participant has an executed contract from EEA. Only approved expenses incurred during the period of contract are eligible for reimbursement. **See also EEA Supplemental Terms and Conditions.**

3. Instructions for Application Submission

A. APPLICATION SUBMISSION: Applications must be received in hard copy by **3:00pm, Tuesday, November 1, 2011**. Any application received after the deadline will be rejected. A postmark will not be accepted for verification of date of submission. Applications will not be accepted by fax or email. The outside of the package should be marked RFR EEA 12 DCS 04. Submit one **original** (clearly identified as such) and **three paper copies** of the application to:

Celia Riechel, Grant Administrator

RE: EEA 12 DCS 04
Executive Office of Energy and Environmental Affairs
100 Cambridge Street – Suite 900
Boston, MA 02114

Help reduce waste—*print double sided when possible. Use the minimum packaging necessary for good organization.*

B. REQUIRED DOCUMENTS: A complete application package includes a completed Application Form and supporting documentation. *Applications lacking items 2, 3, or 4 below by the application deadline will be disqualified.*

Applications should include:

1. Cover letter signed by an authorized signatory for the applicant organization (eg, Chair of the Selectmen, Mayor), authorizing the project manager to apply for the grant on behalf of the municipality or PWS
2. **Application form**
3. **Appraisal report(s)** *(only one copy required; application copies may include just the appraisal summary letter)*
4. **Documentation of the location of the project parcels in water supply protection area:**
 - Existing water supplies: DEP-approved drinking water supply protection area
 - Planned future wells/intakes: Parcel is located in the supply area, as identified through an appropriate planning process (refer to section 2B). Include copies of the relevant parts of the plan
 - Planned groundwater recharge sites: Parcel is located in an area identified as suitable for groundwater recharge, and has been designated as a recharge site through an appropriate planning process. Include copies of the relevant parts of the plan.
 - Parcel soil type is appropriate for infiltration
 - Estimated travel time to nearest public drinking water supply well
5. Project description narrative
6. Budget, itemized as anticipated
7. Maps illustrating project resources and values (you may use the Water Supply Protection Areas online map located here: <http://maps.massgis.state.ma.us/WSPA/viewer.htm>)
8. Stormwater recharge bylaws in applicant community/communities
9. Summary of soil infiltration rate testing results *(for recharge projects only)*
10. Conservation Restriction draft *(if applicable)*
11. Most recent brownfield site assessment MCP Phase I or II, or ASTM Phase I or II *(if applicable)*
12. Preliminary brownfield remediation plan and timeline *(if applicable)*

See the Application Form for more detail.

C. DOCUMENTATION REQUIRED IF SELECTED TO RECEIVE FUNDING: If selected, the Applicant will be required to submit the following forms to receive an executed contract:

- Commonwealth Standard Contract Form
- Commonwealth Standard Terms and Conditions
- Commonwealth Scope and Budget Form
- Completed Contractor Authorized Signatory Listing
- Request for Taxpayer Identification Number and Certification (W-9) *(if applicable)*

Respondents should to review the Commonwealth Standard Contract Form, Commonwealth Scope and Budget Form, and Contractor Authorized Signatory Listing prior to submission of a Response, available under the Forms and Terms tab of this Comm-PASS posting, as well as

D. APPLICATION STEPS AND PROCEDURES:

1. **Municipal or PWS Board vote:** Applicant submits a warrant article or Council order or PWS article. The vote may include authorization to borrow funds contingent upon receiving grant funding. Consult your municipal counsel in drafting the warrant article, order of taking, or city council order. Communities utilizing accounts funded by the Cape Cod Land Bank Act, other local land bank acts, or the Community Preservation Act, should consult with the Department of Revenue, Division of Local Services, for guidelines. The vote must cite the particular parcel to be acquired and contain authorization to seek funding under DWSP grant (M.G.L. C. 111, § 160), and to enter into any contracts for the project, as well as permit the conveyance of a conservation restriction if a CR is applicable to the project, or conveyance of a license or lease for maintenance or other compatible property use. It is not advisable to restrict the municipal vote to a specific dollar amount of state funding or property acreage, as these may change. The Board of Water Commissioners (or Board of Selectmen/City Council authorized as such) must be designated to hold and manage the property for water supply protection purposes under M.G.L. C. 40, § 38, 39B, 41 and 15B, and Article 97 of the Amendments to the Massachusetts Constitution.
2. **Apply:** Applicant files four hard copies (one original and three copies) of the complete application.
3. Applicant will be contacted by EEA to schedule a **site inspection**.
4. **Scoring:** Projects evaluated and scored using applicable DWSP evaluation criteria. See Attachment B for rating system.
5. **Awards announced:** Project approval letter, unexecuted Commonwealth Standard Contract Form, and billing forms for approved projects are sent to Participants by EEA. State funds are obligated by the Commonwealth upon execution of contract documents for approved projects. Applicants not selected to receive funding will receive a brief explanation of why the project was rejected.
6. **Conservation Restriction review:** projects that involve a Conservation Restriction must have a draft CR reviewed by Division of Conservation Services (DCS). Draft CRs, along with a CR review application form (available on the DCS website: www.mass.gov/eea/dcs), should be sent separately to:

Nicole Sicard
Division of Conservation Services
Executive Office of Energy & Environmental Affairs
100 Cambridge St., Suite 900
Boston, MA 02114
7. **Contract execution:** Commonwealth Standard Contract Form is signed by Grantee and returned to EEA. Grantee will be contacted once contract is executed.
8. **Secure DEP approval of acquisition.** Selection of a grant award constitutes preliminary approval to acquire the property. Approval must be finalized through a public hearing at a DEP regional office. The following is a summary of the steps:
 1. Grantee submits a Permit Application (form BRP WS-26) for Land Acquisition and requests a public hearing date.
 2. DEP schedules a public hearing in the appropriate regional office and provides grantee with public hearing instructions.
 3. Grantee notifies abutters and places a public notice in the newspaper.

4. Grantee submits draft documents and proof of abutter notification to DEP.
5. Public hearing is held at DEP regional office.
6. DEP issues Grantee a final approval letter.

12. **Follow state procurement law:** Acquisition projects must adhere to the state's procurement laws, M.G.L. C. 30B (Uniform Procurement Act). DWSP projects fall under Section 16(2)(e). Work with your municipal procurement officer to ensure that your project conforms to the law, including advertising in the Central Register 30 days prior to closing. Communities using CPA funds for the acquisition are exempt from this requirement. EEA cannot reimburse acquisitions made prior to the starting date on the state standard contract for the project.

13. **Purchase property:** Participant makes land purchase only after having received an authorizing vote, and an executed contract from EEA.

14. **Prepare the property:** Grantee performs preliminary site cleanup as needed.

15. **Submit Baseline Documentation Report:** Grantee must prepare a Baseline Documentation Report that documents the conditions of the property at the time of funding (but after any clean-up or remediation). A template document will be provided to Grantees. EEA must review and approve the report.

17. **File reimbursement billing form:** Grantee submits reimbursement billing form to EEA.

19. **Reimbursement payment:** Grantee receives reimbursement.

20. **Post Completion Requirements:** Property acquired using DWSP grant funds is permanently protected open space land under Article 97. It may not be converted to another use or be transferred to another ownership. Properties must be open to the public for appropriate passive recreation. Properties must be maintained in a natural vegetated state to the greatest extent possible.

4. Deadlines and Procurement Calendar

A. RELEASE OF RFR: August 30, 2011

B. INFORMATION SESSIONS: EEA will conduct three information sessions for interested applicants. These will be for general information purposes and will not permit detailed discussion of any one application or potential parcel. The sessions are scheduled for:

Date	Time	Location
Monday, Sept. 19	10:00 am	Quinsigamond State Park 10 North Lake Ave. Worcester, MA 01612
Monday, Sept. 19	2:00 pm	Pioneer Valley Planning Commission 60 Congress St, Floor 1 Springfield, MA 01104
Tuesday, Sept. 20	2:00pm	Cape Cod Commission 3225 Main St. Barnstable, MA 02630

While not required, it is strongly recommended that applicants attend. Please RSVP at 617-626-1187 or

C. QUESTIONS: If unable to attend an information session, questions may be submitted in writing to Celia Riechel, Grant Administrator, on or before October 11, 2011 (see contact information above). Responses to questions submitted, as well as those raised during the information sessions will be posted on Comm-Pass.

D. APPLICATION DUE DATE: Tuesday, November 1, 2011 at 3:00pm

E. ESTIMATED AWARD DATE: Awards for land acquisitions are estimated to be announced on or about 75 days after the grant application deadline, with contract negotiations to begin immediately thereafter.

F. ESTIMATED CONTRACT START DATE: Notwithstanding any verbal representations by the parties, or an earlier start date listed on the EEA executed contract, and only after an award is issued and a final scope of services has been negotiated, the effective start date shall be the latest of the following dates: the date the of the contract executed by an authorized signatory of the contractor and the procuring department; the date of secretariat or other approval(s) required by law or regulation; or a later date specified in the EEA executed contract. The estimated start date for contracts resulting from this RFR is January 25, 2012.

Miscellaneous

A. TYPE OF PROCUREMENT: Grant

B. USE OF THIS PROCUREMENT BY SINGLE OR MULTIPLE DEPARTMENTS: This RFR is a single department procurement. All contracts awarded under this RFR will be utilized solely by EEA.

C. REQUEST FOR SINGLE OR MULTIPLE CONTRACTORS: This RFR may result in multiple contracts.

D. RFR DISTRIBUTION METHOD: This RFR has been distributed electronically using the Comm-PASS system. It is the responsibility of every Applicant to check Comm-PASS for any addenda or modifications to an RFR to which they intend to respond. The Commonwealth of Massachusetts and its subdivisions accept no liability and will provide no accommodations to Applicants who fail to check for amended RFRs and submit inadequate or incorrect responses. Potential Respondents are advised to check the "last change" field on the summary page of RFRs for which they intend to submit a response to ensure they have the most recent RFR files.

Respondents may not alter RFR language or any RFR component files. Those submitting a proposal must respond in accordance to the RFR directions and complete only those sections that prompt a Respondent for a response. Modifications to the body of this RFR, specifications, terms and conditions, or which change the intent of this RFR are prohibited. Any unauthorized alterations will disqualify response.

E. LIST OF ATTACHMENTS TO THIS RFR:

- A. Application Form
- B. DWSP program acquisition selection and rating system
- C. Appraisal report requirements
- D. Requirements for use of Community Preservation Act funds

The EEA Supplemental Terms and Conditions are hereby incorporated into this RFR by reference. EEA Supplemental Terms and Conditions are found under the Forms & Terms tab of this Comm-PASS posting

Drinking Water Supply Protection (DWSP) Grant Program
APPLICATION FORM – FY2012

Deadline: Tuesday, November 1, 2011, 3:00pm

Please print double-sided

I. APPLICANT INFORMATION

Applicant: _____

Project name: _____

Contact person / project manager:

This is the person who will be the day-to-day manager of the project and who will represent the municipality in communication with DCS. **Attach authorization from the Chief Executive Officer identifying the individual named below.**

Name: _____

Title/affiliation: _____

Address: _____

Phone Number: _____

E-mail address: _____

Do you currently have any enforcement orders or orders of non-compliance issued for your water resource management? ☐ Yes ☐ No

Note: Applicants with outstanding or unresolved orders will not receive funding.

2. PROJECT DETAILS

Type of project: ☐ Existing source ☐ Future source ☐ Groundwater recharge

Public Water System (PWS) ID#: _____

Water Supply Source ID# (identify all sources to be protected by this acquisition, eg, 01G, 02G):

Municipalities served by the PWS: _____

Population served by the PWS: _____

What is the projected change in water demand in the next 20 years for this PWS, compared to 2011? (from Water Needs Forecast): _____

Does this PWS serve an identified Environmental Justice community?

☐ Yes

☐ No

Parcel information:

Parcel	Acres	Assessor's map/lot #	Interest to be acquired (fee or Conservation Restriction)	Parcel location	Current owner
1					
2					
3					
4					
5					
6					

Total project acres: _____

County: _____

Watershed: _____

Current zoning:

*Check all that apply.
attach zoning map(s).*

- ☐ Industrial/manufacturing
- ☐ Commercial/institutional/mixed use
- ☐ Residential
- ☐ Agricultural
- ☐ Forest / Water supply protection district

Present use(s): _____

Past use(s): _____

Are there buildings or structures on the property?

☐ Yes

☐ No

If yes, list each. The DVVSP Program is intended to preserve undeveloped land, not to purchase buildings. Buildings

are not eligible for grant funding and their value should be subtracted from the value of the subject property.

3. ACQUISITION AND FUNDING DETAILS

Appraisal Report #1		Appraisal Report #2 (if land valued at over \$750,000)	
Valuation	\$	Valuation	\$
Appraiser		Appraiser	
Valuation		Valuation	
Date		Date	

Acquisition details:

Negotiated Sale: ☐ Yes ☐ No
 Do you have a Purchase & Sales Agreement or Agreed Price? ☐ Yes ☐ No
 If yes, amount: \$_____

*Is Clear Title available? ☐ Yes ☐ No
 If no, is an eminent domain taking anticipated? ☐ Yes ☐ No
 If yes, proposed pro tanto award amount: \$_____

*If clear title is not available, the applicant may decide to acquire the property by a friendly taking (eminent domain) process to clear the title. It is best to know if there is a potential title problem as soon as possible since this can complicate the acquisition process.

Funding request:

Recipients of DWSP grant funding are reimbursed *after* they have expended the total project cost and submitted proof of payment. See section 2E in RFR for eligible expenditures. The total project cost must be raised or appropriated by the applicant. Costs incurred prior to grant approval and contract execution will not be reimbursed. The maximum grant award is \$500,000. The reimbursement rate is 50% of eligible expenditures.

Total project cost (estimated): \$_____
Requested award amount: \$_____

Project budget: 1 page itemized list

Include the source of all local funding including other grants, donations, partner organizations, etc. Donations should be gifted to the applicant and earmarked for the project. List any partners (such as

non-profits) and describe their contribution. If a greyfield, brownfield, or formerly developed site: include preliminary budget details and permits for site remediation/restoration.

4. PROJECT DESCRIPTION

Describe in a two page attachment the following:

- Description of property, its value for water supply
- Water conservation, resource planning, and management measures already in place – how does this project fit?
- Threat of development to parcel
- Proposed uses and type of passive public recreation to be permitted
- Property management and vegetative cover types
- Project schedule

Will this project involve the removal of structures, or rehabilitation of a greyfield, brownfield, or developed site?

☐ Yes

☐ No

If a brownfield, attach a copy of the most recent site assessment, either MCP Phase I or II, or ASTM Phase I or II, indicating the nature of the contamination and the remediation required. Discuss in the Project Description the importance of remediating the site, the plan for remediation, clear identification of disbursement of liability (e.g., will the town take it or will it reside with the current owner?), and any specific stewardship that will be undertaken to ensure that currently existing contamination on the site does not in the future pose undue risk to the public. Include a remediation timeline and funding sources. Site remediation must be completed before reimbursement.

5. RESOURCE MANAGEMENT & COMMUNITY PLANNING

Supporting documentation MUST be included to receive credit.

Planning:

Water resource planning: Is project located in an area identified as a priority for protection in the municipal/PWS Source Water Assessment and Protection (SWAP) report, wellhead protection plan, surface water supply protection plan, community master plan, water resources management plan, wastewater resource management plan, regional watershed plan, water assets report, or an analysis of lands utilizing established water assets GIS screening methodology? (See http://www.mass.gov/mgis/water_assets_budgets.htm)

☐ Yes

☐ No

Projects to protect future water supply sources: Have you submitted an application to DEP for a new source approval?

☐ Yes

☐ No

Land use planning: Does municipality have zoning regulations in place that promote low-impact development and conservation of open space? (ex. Low Impact Development, Open Space Residential

Design, etc)

Attach a copy of zoning bylaws (relevant sections only), or zoning maps.

☐ Yes

☐ No

Management:

Water resource management: Does municipality have bylaws/ordinances in place that encourage stormwater recharge? *Attach a copy of relevant bylaws/ordinances.*

Examples: Natural Resources Protection Zoning, Low Impact Development, requirements for swales and pervious surfaces, etc.)

☐ Yes

☐ No

If multiple municipalities are served, points will be awarded if half or more of served municipalities have such in place. Indicate which municipalities have bylaws/ ordinances: _____

Forest management: If you conduct timber harvests or other forest management on parcels you own in fee, do you do so under an approved forest management plan?

☐ We harvest timber or do other forest management activities under an approved forest management plan

☐ We conduct forest management, but we do not have an approved forest management plan

☐ We do not manage our forestland

☐ We do not own forestland

6. PROJECT QUALITY

Supporting documentation **MUST** be included to receive credit.

Water resources:

Percentage of project that is 0-1,000ft from Zone I boundary or edge of waterbody:

☐ None

☐ 1-24%

☐ 25-74%

☐ ≥75%

Current well sites/intakes:

Percentage of project that is within Zone I/II or A/B drinking water supply area:

☐ None

☐ 1-49%

☐ 50-74%

☐ 75-89%

☐ ≥90%

IF less than 50% of property is in Zone I/II or A/B, how much is in Zone C or III?

☐ None

☐ 1-24%

☐ 25-74%

☐ ≥75%

Future well sites/intakes:

Have you submitted an application for a New Source Review to DEP?

☐ Yes ☐ No

Percentage of project that is within estimated Zone I/II or A/B drinking water supply area or Interim Wellhead Protection Area (IWPA):

☐ None ☐ 1-49% ☐ 50-74% ☐ 75-89% ☐ ≥90%

IF less than 50% of property is in Zone I/II or A/B, how much is in Zone C or III?

☐ None ☐ 1-24% ☐ 25-74% ☐ ≥75%

Groundwater recharge projects:

Soil hydrologic group (HSG) percent of parcel(s) acreage:

A (gravel, sand) _____%

B (loamy sand, sandy loam) _____%

C (loam, silt loam, sandy clay loam, clay loam, silty clay loam) _____%

D (clay) _____%

Soil classification information is available from the USDA Natural Resources Conservation Service (NRCS), web soil survey (<http://websoilsurvey.nrcs.usda.gov/app/HomePage.htm>), or the Soil Data Mart (<http://soildatamart.nrcs.usda.gov/>). Applications to acquire properties for which NRCS data is lacking or believed to be inaccurate may conduct an independent analyses of the soil composition and conductivity specific to the property.

Infiltration rate: _____ inches per hour

Test type: ☐ infiltration ☐ percolation

Estimated travel time to nearest public drinking water supply well: _____ year(s)

Note: Recharge projects with predominantly C or D soils HSG, an infiltration rate exceeding 30 minutes/inch (2 inches/hour), or that have an estimated travel time of less than one year to the nearest public drinking water supply well are NOT eligible for funding as a recharge project.

Resource protection:

Proposed use: Will this project eliminate an imminently likely threat or contaminant source to water resources? ☐ Yes ☐ No

If yes, describe: _____

PWS susceptibility to contamination (from SWAP report):

☐ High ☐ Medium ☐ Low

Undevelopment and remediation: Will this project involve the removal of structures, impervious

surfaces, or other development, or, is it a former brownfield? Proposed remediation plans must be appropriate.

☐ Yes

☐ No

Threat level: Provide documentation indicating the level of pressure for development and/or land use change on the project property and in the community generally. This could include a list of factors that affect potential development, such as, but not limited to: subdivision plans; number of Approval Not Required lots; documentation of rate of land use change and conversion; the owner's history of land development; or analysis of transportation routes, etc.

Recreation:

What kind of public access will be allowed?

☐ Trail-based activities (example: hiking)

☐ Wilderness activities (example: hunting)

☐ Other. Describe: _____

Public access for passive recreation is a requirement of this grant. Necessary and reasonable restrictions to public access may be made in Zone I and infrastructure areas.

7. MUNICIPAL OR PWS BOARD OF COMMISSIONERS APPROVAL

The proposed land acquisition must be approved. Attach a certified copy of the vote, or draft language.

Do you have town meeting / city council / PWS Board approval?

☐ Yes

☐ No

If not, what is the date for the vote? _____

8. OTHER IMPORTANT DOCUMENTATION

Not required but *strongly* recommended

- Maps:**
- 1. USGS topographic map** with an outline of the Project boundary. Identify nearby water supply lands and other public or quasi-public open space abutting, or in close proximity.
 - 2. Drinking Water Supply Protection Areas map** indicating Project location in relation to Zones I, II, III or A, B, C (or, for future water supplies, estimated or IWPA). An online mapping tool is available here: <http://maps.massgis.state.ma.us/WSPA/viewer.htm>
 - 3. Watershed map** showing this parcel in relation to the rest of the watershed.
 - 4. Plot plan or survey map** showing the Project boundary. The Project area must be shown in enough detail to be legally sufficient to identify the lands to be protected. A survey plan with deed references or assessor's map with block and lot number are acceptable.

5. Hydrogeologic Soil Group (HSG) map for proposed groundwater recharge projects

Draft Conservation Restriction (CR): If your project involves the purchase or conveyance of a CR,

please complete a separate CR application and submit a draft restriction along with this application. The CR application is available under “Publications” at the DCS website at www.mass.gov/eea/dcs. To obtain a copy of the Conservation Restriction Handbook, visit <http://www.mass.gov/Eoeea/docs/eea/dcs/crhandbook08.pdf>. Submit the draft CR to:

Nicole Sicard
Executive Office of Energy and Environmental Affairs
100 Cambridge St., Suite 900
Boston, MA 02114

Infiltration rate testing results (summary), for proposed groundwater recharge projects.

Brownfields: If the property to be acquired is a brownfield site, the applicant should submit documentation of the nature of contamination, the type of remediation required, and an estimate of the cost and time required for remediation. This should include a map of contaminant locations. Massachusetts Department of Environmental Protection maintains a database of known, current, waste sites and pollutant releases at <http://db.state.ma.us/dep/cleanup/sites/search.asp>. A more detailed, site-specific environmental cost estimate (or MCP Phase III Completion Report including a cost estimate) from a Massachusetts Licensed Site Professional will be required if a project is selected to receive funding (see <http://db.state.ma.us/dep/lsp/lspsearch.htm> for a list of LSPs). Applicants must prove that the site has achieved closure under M.G.L. 21e by submitting either a Response Action Outcome (RAO) or Remedy Operation Status (REMOPS) prior to the end of the fiscal year of the award, before reimbursement will be made. If an Activity Use Limitation (AUL) deed clause is part of the RAO, a copy must also be submitted and approved before reimbursement.

9. CERTIFICATION

This application was prepared by:

Name:

Title/organization:

Mailing address:

City:

State:

Zip:

Email:

Telephone:

The information and data that has been included in this application to the FY12 Drinking Water Supply Protection Grant application is true and correct to the best of my knowledge.

Signed:

Date:

ATTACHMENT CHECKLIST

- ☐ Appraisal report(s)
- ☐ Budget outline
- ☐ Maps
- ☐ Project description narrative
- ☐ Supporting documentation for Resource Management & Community Planning and Project Quality sections
- ☐ Town Meeting, City Council, or PWS Board authorization to apply to this grant and acquire the subject parcel(s) for water supply purposes
- ☐ Draft Conservation Restriction (if applicable)

Applications lacking the correct number and type of appraisal report(s) will not be considered.

Contract documents

Applicants selected to receive funding under this RFR will be required to submit the following forms in order to execute a contract with the Commonwealth. Forms will be provided. They are also available from the Operational Services Division at www.mass.gov/osd/forms.

- Commonwealth Standard Contract
- Commonwealth Standard Terms and Conditions
- Scope of Services and Additional Terms and Conditions
- Contractor Authorized Signature Verification Form
- Request for Taxpayer Identification Number and Certification (W-9) (if applicable)

Attachment B: Land Acquisition Project Selection System

Drinking Water Supply Protection Grant Program

In order to distribute limited grant funds, a project selection system is used for conservation land acquisition projects. The selection system includes a review of each project and draft ratings and funding recommendations by a grant review committee. The rating system considers demographic, community management and planning, and project quality factors in order to identify those projects that best protect public drinking water supplies.

In reviewing applications for land acquisition and developing funding recommendations, the grant review committee considers:

1. Demographics

- Population served
- Demand forecast for the PWS service area which this project serves
- Environmental Justice Community

2. Resource Management and Community Planning

- Water resource planning: acquisition has been identified through a formal water management, SWAP report, or other plan as a priority for acquisition.
- Land use planning: community has adopted land use zoning which encourages low-impact development and open space conservation
- Water resource management: municipality(s) served by this project have ordinances or bylaws in place that require use of stormwater recharge techniques, through Low Impact Development/OSRD/NRPZ, or swales and pervious surfaces in developed areas.
- Applicant has an approved forest or other management plan for all fee-owned forest lands on which it harvests timber or other forest products.

3. Project Quality

- Importance of parcel(s) proposed for acquisition to the water resource.
- Landscape conservation.
- Resource protection: current parcel zoning, likelihood of incompatible land use or development, susceptibility of PWS to contamination, undevelopment and removal of existing development, contamination sources, or land uses incompatible with water supply protection
- Project type-specific quality:
 - Existing wells or intakes: preference given to projects in closest proximity to Zones I and A
 - Planned future wells or intakes: preference given to projects for which an application for new source approval has been submitted to DEP
 - Groundwater recharge projects: preference given to projects with faster infiltration rates and/or greater travel time to nearest public drinking water supply well

4. Recreation

- Public access for appropriate passive recreation—quality of the recreational opportunity as determined on site visit

5. Overall quality

- Project quality

SELECTION NOTES:

Preservation of Agricultural Land

Executive Order #193 discourages the irreversible conversion of the Commonwealth's productive agricultural land base. State Grants shall not be used to encourage the irreversible conversion of agricultural land to other uses when feasible alternatives are available. In the event that all feasible alternatives have been explored, and the conversion of suitable agricultural lands to non-agricultural use remains the only feasible alternative to protection of open space, a mitigation plan must be developed to be eligible for reimbursement under a state grant. Project which would convert any prime agricultural lands should consult with the Department Agricultural Resources at (617) 626-1700 prior to submitting an application.

RATING SYSTEM for Drinking Water Supply Protection Grant Acquisition Projects

CATEGORY		Description	Max
DEMOGRAPHICS – 10 points			
Population served	How many people does this PWS serve? Score will be ranked relative to other applications. 0 - 4		4
Demand forecast	Projected change in demand in the next 20 years (from 2011) for this PWS? From water needs forecast. No increase <5% increase 5-10% 10-15% Over 15% 0 1 2 3 4		4
Environmental Justice	PWS serves, or will serve, identified EJ community Yes : 2 No: 0		2
RESOURCE MANAGEMENT & COMMUNITY PLANNING – 20 points			
Where the measurement is of municipal action, the <i>applicant</i> municipality/ies will be used, not the municipality in which the property is located.			
Planning	Parcel is located in an area identified as a priority for protection in the municipal/PWS SWAP report, wellhead protection plan, master plan, or water resources management plan. Yes: 8 No: 0		8
	Community has zoning (min lot sizes by village and rural districts) and/or other land use regulations promoting low-impact development, high-density core and low-density periphery (LID, TDR, OSRD, etc)? Yes: 5 Marginal: 3 No: 0		5
Management	Bylaws/ordinances require ground water recharge in developed areas (swales, pervious surfaces, etc.) Yes: 4 Marginal: 2 No: 0		4
	Forest management: Manages forestland under approved forest management plan: 3 Manages forest without an approved forest management plan: 1 Does not manage its forestland: 0 Does not own forestland: 0		3
PROJECT QUALITY 70 points			
Importance (rate according to type of project)	Groundwater recharge projects	Estimated travel time for recharged water to nearest public drinking water supply well: <1 year 1-2 yrs 3-4 yrs 5-6 yrs ≥7 yrs Ineligible 0 4 8 10	20
		Infiltration rate (average for site): <1.4 in/hr 1.4 – 3in/hr 3 – 5.6 in/hr >5.6 in/hr 0 2 8 10	
	Proposed future wellhead / intake projects	Has an application for new source approval been submitted to DEP for the proposed wellhead/intake? Yes: 4 No: 0	
		Percentage of project within a potential Zone I,II, A, or B water supply protection area or IWPA: 1-49% 50-74% 75-89% ≥90% 5 9 13 16	
		IF less than 50% is in Zone I, II, A, or B, how much is in Zone III or C? 1-24% 25-74% ≥75% 1 2 3	
	Current wellhead /intake projects	Percentage of project within a Zone I,II, A, or B water supply protection area: 1-49% 50-74% 75-89% ≥90% 5 10 15 20	
		IF less than 50% is in Zone I, II, A, or B, how much is in Zone III or C? 1-24% 25-74% ≥75% 2 3 4	
Landscape conservation	Project size (acres): < 5 5-9 10-24 25-49 50-74 75-99 >100 1 2 3 6 10 13 15		15
Resource protection	Current zoning of project parcel(s): Industrial/Manufacturing/Warehousing 7 Commercial/Institutional/Mixed use..... 6 Residential..... 6 Agriculture.....4 Forest / water supply protection.....0		23
	Proposed use: project will eliminate an imminently likely threat/contaminant source to water resources Yes Moderate threat/likelihood No significant threat 5 3 1		
	PWS susceptibility to contamination (from SWAP report): High: 5 Moderate: 3 Low: 1		
	Undevelopment: Project will remove structures, impervious surfaces, other development. Proposed remediation plans must be appropriate. Yes: 6 No: 0		
Recreation	Public recreational opportunities? (determined at site visit) Trails-based (eg, hiking): Yes: 2 Marginal: 1 No: 0 Wilderness (eg, hunting): Yes: 2 Marginal: 1 No: 0 Other Yes: 2 Marginal: 1 No: 0		6
Overall project quality	Excellent Very Good Good Average Poor 6 5 4 2 0		6
TOTAL			100

Attachment C: Appraisal Report Requirements

If your project involves an acquisition, Appraisal Reports are absolutely critical to the success of your project. The subject property must be appraised in accordance with the Division's requirements by a qualified, independent and disinterested appraiser. Reports done for the owner, or paid for by the owner, cannot be used. The Report(s) must be submitted along with the preliminary application by the grant round application deadline.

- I. **Type of Appraisal Report Required:** The following conditions determine the number and type of appraisals required.
 - a. for acquisitions with appraised values of \$750,000 or more, two appraisals by real estate appraisers certified or licensed pursuant to M.G.L. c. 112, and dated no earlier than a year prior to the date of execution of the acquisition agreement or conveyancing documents, are required, of which one may be a review appraisal;
 - b. for acquisitions with appraised values of less than \$750,000 but more than \$50,000, one appraisal by a real estate appraiser certified or licensed pursuant to M.G.L. c. 112, and dated no earlier than a year prior to the date of execution of the acquisition agreement or conveyancing documents, is required; and
 - c. for acquisitions of \$50,000 or less, one appraisal by a real estate appraiser certified or licensed pursuant to M.G.L. c. 112, and dated no earlier than a year prior to the date of execution of the acquisition agreement or conveyancing documents, or one contracted market analysis, or one contracted opinion of value is required, subject to the discretion of the Director of the Division of Conservation Services.

A full narrative appraisal is a comprehensive analysis, substantiated by documented market data, of the value of a property. Full appraisals must be bound, in book-fashion, in the left margin, in a durable cover with an identification of the property on the cover page. The paper must be a good grade bond of size 8 1/2"x 11". All pages must be numbered consecutively, including all exhibits, and each important heading must be shown in the Table of Contents. In short, this is not the brief estimate typically done by a lending institution when a home is refinanced.

2. **The Appraiser's Scope of Practice:** The appraiser must be licensed and/or certified by the Massachusetts Board of Registration of Real Estate Appraisers, and have the appropriate license or certification for the type of land that is appraised. Often the project will require a state certified general real estate appraiser. The following is an excerpt from the state regulations for the Board of Registration of Real Estate Appraisers.

264 CMR 6.01: Scopes of Practice

(1) State-Licensed Real Estate Appraisers. State-licensed real estate appraisers may appraise:

- a. non-complex one-to-four unit residential properties having a transaction value of less than one million dollars (\$1,000,000) and complex one-to-four unit residential properties having a transaction value of less than two-hundred fifty thousand dollars (\$250,000);
- b. vacant or unimproved land that is to be utilized for one-to-four unit residential properties, and where the highest and best use is for one-to-four unit residential purposes; and,
- c. properties as specified by the FFIRAS.

State-licensed real estate appraisers may not appraise subdivisions wherein a development analysis/appraisal is necessary and utilized.

(2) State-Certified Residential Real Estate Appraisers. State-certified residential real estate appraisers may appraise:

- a. residential properties with one-to-four units and complex one-to-four unit residential property both without regard to transaction value;
- b. vacant or unimproved land that is to be utilized for one-to-four unit residential use and where the highest and best use is for one-to-four family unit residential purposes; and,
- c. properties as specified by the FFIRAS.

State-certified residential real estate appraisers may not appraise subdivisions wherein a development analysis/appraisal is necessary and utilized.

(3) State-Certified General Real Estate Appraisers. State-certified general real estate appraisers may appraise all types of non-complex and complex real property both residential and non residential.

Regulatory Authority: 264 CMR 6.00: M.G.L. c. 13, s. 92; M.G.L. c. 112, §. 173-195.

3. **Common Comparable Sales Problems:** Reports usually contain comparable sales and the examples offered should be just that: comparable. The locations should be similar, preferably the same town. If they are not, the narrative must explain why that particular sale is still comparable. The highest and best use and market situations of the comparable sale should be the same as the subject property. These sales must also represent arms length transactions – generally municipal transactions are not arms length.
4. **Common Valuation Problems:** The highest and best use must reflect a market situation, and typically "open space" or "conservation" is not a marketable situation. If the subject property cannot support development, perhaps it would be attractive to abutters who wish to add to their own holding (assembly), or the property may have some timber value, or if the property is part of a larger parcel, a before and after value is warranted. Any restrictions placed in the deed by the grantor (seller) can possibly lower the value of the property.
5. **Complicated Circumstances:** Appraisals must be analytical narrative reports following current professional appraisal standards. All components of the report such as introductory and supporting data, valuation analysis, limiting conditions, and certifications must meet these standards. If necessary, the Division of Conservation Services will furnish supplementary specifications which delineate additional required data in the appraisal of highly specialized properties or properties to be acquired under unusual circumstances.
6. **Eminent Domain Taking:** The Municipality must notify the Appraiser if an eminent domain taking is contemplated or a possibility. All grant program participants must provide for fair and equitable treatment of persons and businesses to be displaced as a result of the acquisition. Participants must abide by the requirements of M.G.L. c. 79A or c. 80A (both pertain to eminent domain takings), as amended.
7. **Review Appraisal:** When, in the opinion of the Director, the value of the property remains in doubt, further appraisals may be required to reach a value conclusion. The resolution of value may be accomplished through the performance of entirely new appraisals or through the engagement of an appraiser as qualified above for the purpose of reviewing existing appraisal reports and certifying a final value conclusion.
8. **Reports must be submitted by the grant round deadline.** However, if DCS requires report corrections, revisions, or review appraisals; they may be submitted after the deadline.
9. **Reports must be written for the applicant municipality.** Appraisals must include the municipality as a client, and cannot be paid for, or obtained by, the owner.
10. **Special Note for appraisals submitted as part of a conversion proposal.** These Reports must value the converted property under a hypothetical situation: *as if the property were developable*, unencumbered by any conservation or recreation restrictions.

Sources And References

These appraisal specifications are based on material from the following sources:

1. EEA Land Acquisition Policy – Appraisals dated September 1, 1995.
2. Uniform Standards of Professional Appraisal Practice

APPRAISAL REPORT REQUIREMENTS

I. INTRODUCTION

- A. Title Page: Each Appraisal Report must include: (a) the name of the Municipality (client) for which the Report was prepared, (b) the name and street address of the property, (c) land area of the property (d) the name and street address of the owner(s), (e) the name of the individual making the report, and (f) the effective date of the appraisal.
- B. Table of Contents – List all essential items in the report.
- C. Certificate of Value – See Exhibit I.
- D. Summary of Important Facts and Conclusions
- E. Photographs
- F. Statement of Limiting Conditions and Assumptions: Each Appraisal report should set forth the limiting conditions and assumptions made by the Appraiser in preparing the report. If there is a discrepancy in description, acreage, frontage, or other factual data, the Report should note which description, amount or measurement is being used in calculating the final value.

II. FACTUAL DATA

- A. Purpose of Appraisal: Include a statement of the reasons for the appraisal, a definition of the appraisal problem and a description of the property rights being appraised.
- B. Legal Description and Title
- C. Area, City and Neighborhood Data: Include the area, city and neighborhood data, including area or location maps (such as the United State Geologic Survey topographic map) and indicate the location of the subject property. Include a general description of the city or town, the section of the community, and the actual area surrounding the property. This section should also include a discussion of the town's or city's attitude toward development, and upon what information any conclusions are based; whether the town or city has a Master Plan; the population trends in the community, and reasons for such trends. This data should be kept to a minimum and related to the valuation problem at hand.
 - 1. Favorable and Unfavorable Factors: List and discuss favorable and unfavorable factors affecting the property, such as transportation, major industries, shopping centers and recreation areas. Any hazards or nuisances which affect the subject property, such as obnoxious facilities, smoke, smell, noise and traffic, should be thoroughly discussed. Indicate the factor's location and relationship to the property as well as its effect upon market value.
 - 2. Real Estate Market Conditions: Discussion of current real estate market conditions affecting the area, including supply and demand factors. Mention the specific type of property being appraised, along with future indicated trends and the extent to which those trends affect the value of the property. Also include data on the number of lot sales, and, if available, bona fide building permits issued in the past three to five years, and those pending, for the type of development or construction starts within that three to five year period.

III. PROPERTY DATA:

The data collected by the Appraiser should be as comprehensive as possible, and be acknowledged and related to the Appraiser's determination of Highest and Best Use and final value conclusions.

- A. Site - describe the property's location; current use(s); access (public or private road, paved or unpaved); adequacy of access for subdivision purposes; area; shape; extent of road frontage; buildings; presence and location or absence of utilities; topography; soils and sub-soil conditions; porosity of soils/adequacy of drainage; availability of town sewer (if none, whether soil will percolate); presence or availability of potable water, and whether current or proposed uses may cause contamination of sources of drinking water or wells on or near the property; merchantable forests; extent of water frontage; scenic views; wetlands or floodplain, aquifer recharge districts, or any other environmental constraints. Any history of the site, or physical characteristics, which might indicate its use for disposal or storage of known hazardous or potentially hazardous materials must be indicated. In the case of a partial acquisition, the report should similarly describe the remainder property, including any limitations or enhancement caused by the acquisition of the subject property. Describe any Massachusetts General Laws Chapter 61 (forest land), Chapter 61A (agricultural and horticultural land) and 61B (recreational land) encumbrances which have been placed on the property. Include the existence and extent of any easements, rights of way and/or other

encumbrances (including conservation, agricultural, or other preservation restrictions or easements) which appear of record and/or on the ground. Investigate the likelihood of existence or non-existence of loam, peat moss, water, timber, gravel or mineral deposits on the subject property. If it is determined that such materials exist, determine whether there is a demand or market for the material(s). If so, indicate whether a permit to extract or remove these materials has been issued, or the likelihood of issuance or denial of a permit if applied for. If a permit is not necessary, or has been issued, or issuance would be likely, determine the enhancement value these materials bring to the subject property, if any, by use of the comparable sales method. The presence, absence or value of such materials need not be investigated when the appraisal assignment is for a partial interest in the property which does not include rights to these materials.

- B. Site Conditions and Improvements - Include a description of site conditions and/or improvements by narrative or list form. Such conditions and improvements may include buildings or other structures, foundations, ruins, archeological sites, cemeteries, quarries, dams, and water or flood control devices. If measurable, include dimensions, and cubic or square foot measurements of such conditions and improvements. Where applicable to determination of highest and best use, determine the rentable areas on site (including a statement of the method of measurement used in determining rentable areas), and the fair market rental value of such areas. Also note evidence or likelihood of existence of hazardous materials or waste on the site. Where so noted, the Appraiser must immediately notify the Municipality.
- C. Equipment - Where the highest and best use of the subject property is for a special purpose (for example, as a downhill ski facility, golf course, or camp), include a description of equipment appurtenant to the appraised premises by narrative or list and include all items of equipment. The current physical condition and relative use and/or obsolescence should be stated for each item or group of equipment described, and a final value estimate of each item or group determined. When repair or replacement of the equipment is necessary to bring the equipment to a usable condition, an estimate of the costs for doing so should be provided. Any related personal equipment, such as tenant trade fixtures, which are not attached or considered part of the realty must be separately inventoried by the Municipality. Where applicable, these detachable or individually owned items must be separately valued by the Appraiser.
- D. History - State the history of the use or uses of the property. Include any evidence of prior use of the property for storage, use or disposal of hazardous wastes or materials. Where applicable, describe the purpose for which improvements were designed, dates of original construction and major renovations and/or additions. Show all transfers of the appraised property for the past ten (10) years, including sales; the sale price, if listed; leases; and, if known, offers to buy or sell. If there have been no transfers within the past ten (10) years, the Report should so state, and include a report of the last sale.
- E. Assessed Value and Annual Tax Load - Include the assessor's map and parcel number for the property, a copy of the assessor's map, and the current assessment and dollar amount of real estate taxes. Also include assessments for the five previous years and comment on consistency of assessments, practices and procedures. Assessments for land and structures should be listed separately. If the property is registered under Chapter 61, 61A or 61B, the report must include the full assessment and tax as well as the reduced assessment and tax. If the property is not taxed, estimate the assessment as if the property were subject to taxation, state the rate and give the dollar amount of the tax estimate.
- F. Insurance - If the Appraiser determines value by the income approach then the Appraisal Report should present the estimated rate per thousand and the annual cost of adequate insurance coverage (not necessarily present coverage).
- G. Public Land Use Controls: The Appraiser should make an exhaustive review of laws and regulations that affect the subject property and acknowledge and relate them to the Appraiser's final value conclusions.
 - a. Zoning - Include, as an exhibit or in the addenda, a copy of the applicable sections of the zoning regulations in effect as of the date value is certified, and the date on which the regulations became effective. Describe the zoning for the subject property and for comparable properties; and reveal whether the zoning regulations allow pork chop lots, cluster developments, condominiums, cooperatives or other alternative development approaches. Indicate whether limited development options would enhance value where, for example, higher lot values for buildable land result if non-buildable land is designated as permanent open space, or where a greater net value results from sales of oversized lots utilizing only existing street frontage. If the subject property is not zoned, state what the zoning would be under private ownership. If rezoning is imminent, the background and status of the matter should be described. Also indicate the likelihood of issuance of a variance or approval of a change in zoning where such a variance or change could affect the

Highest and Best Use of the subject property. The Appraiser should not unduly speculate; any conclusion that a zoning change may occur or variance would be issued must be clearly supported and explained.

- b. Subdivision Rules and Regulations - Where Highest and Best Use of the subject property is deemed to be a subdivision, relevant sections of the current local Subdivision Rules and Regulations must be cited, and copies provided (showing date on which they became effective) including: class of roads, width of rights of way, width of paved surfaces, slope limitations, dead-end road limitations, utilities requirements, sight-stopping distances, intersecting curve radii, and cul-de-sac radii.
- c. Wetland Regulations - If the property is potentially subject to the jurisdiction of the United States Rivers and Harbors Act (33 USC Section 404); the Massachusetts Wetland Protection Act (M.G.L. c. 131, §40); the Massachusetts Wetlands Restriction Act (M.G.L. c. 130, §105); or a city or town wetlands by-law, the areas within their jurisdiction and the activities regulated thereby must be discussed, and their impact on the valuation of the subject property determined.
- d. Flood Plain Regulations - If the subject property lies in any federal flood hazard district, a flood plain map must be included showing the relationship of the subject property to the district, and the impact on the valuation of the subject property.
- e. Water Resource or Aquifer Protection Districts - If the subject lies in a water resource or aquifer protection district, a map must be included showing the relationship of the subject property to the district, together with a description of the regulations and their impact on the value of the subject property.
- f. Other Overlay or Floating Zones - The Appraiser should investigate whether other overlay districts or protective zones have been created which may impact the subject property, and determine their effect upon its value.
- g. State Sanitary Code (title 5)/Board of Health Regulations If the Appraiser has reason to believe that all or part of the subject property is suitable for development and there is no municipal sewer available to the site, the Appraiser should investigate the local regulations concerning minimum standards for placement and capacity of septic systems, as well as the acceptable percolation rate. If percolation tests are not performed on the site, the Appraiser should submit soil survey maps of the site and identify the types of soils found. If soil maps are not available, or if the Appraiser has concluded the highest and best use of the subject does not include development, a report from a soil scientist is required to indicate (a) the types of soils found on the subject property, (b) whether the site is capable of supporting operational septic systems, and (c) limitations, if any, of the soil types found on the property. If sewer is available to the subject, or if the property may or must connect to sewer, the Appraiser should investigate and report whether new connections to the system are being accepted; whether any regulations or phasing in hook-ups control new connections; whether the town system has sufficient capacity, or sufficient capacity is planned or expected, and within what timeframe.

IV. ANALYSIS AND CONCLUSIONS

- A. Highest and Best Use: The Report must state the Highest and Best Use or combination of uses that can be made of the property (land and improvements) for which there is a current market. The analysis should include a discussion of other logical uses considered and the reasons why the property being appraised lends itself to the selected use. If the Highest and Best Use is different than the present use, the Appraiser should discuss how the property being appraised is available, suitable, adaptable and in demand for the new use. The valuation should be based upon the stated Highest and Best Use. If the Highest and Best Use is based on a zoning change, variance, special permit or subdivision plan approval, the Appraiser should have concluded that there is a substantial likelihood that the required zoning relief would be granted and the Appraiser should set forth the basis of that opinion in the Report. In the event of a partial acquisition or taking, the Highest and Best Use of the remaining portion of land should be stated, including the reasons why the Highest and Best Use remains the same or has changed by virtue of said partial acquisition. This determination must be undertaken in conformance with a Highest and Best Use analysis described herein.
- B. Value Estimate by Market Approach: This section of the Report should determine market value of the subject property according to the following analyses.

- a. Direct Sales Comparison - The Appraiser's opinion of the value of the land must be supported by confirmed sales of comparable, or nearly comparable lands having like optimum uses. In general, a minimum of five comparable sales is required. In special circumstances, however, a lesser number may be used. Where a lesser number is used, acceptable reasons must be given why other comparable sales are not available. No comparable sales should be used which are older than three years, except under unusual circumstances, which circumstances should be fully explained in the Report. All comparable sales used must be personally inspected and photographed by the Appraiser and should be confirmed by the buyer, seller, broker, or other person having knowledge of the price, terms and conditions of sale, and the Report should indicate by whom confirmation was given. Include these references in the Report addenda. The following information and steps must be included:
- i. A summary of comparable sales (lots and acreage) and perimeter sketches (include in Addenda);
 - ii. A map showing the location of the comparable sales (and the subject property, if appropriate);
 - iii. A table or chart showing all relevant adjustments, including changed market conditions, or time. Care should be taken to qualify sales of improved property to eliminate price increases or decreases due to exceptional additional, renovation, rehabilitation, casualty or depreciation of the improvements; and
 - iv. A discussion in detailed, narrative form, discussing such factors as:
 - time
 - location (desirability, view, etcetera)
 - zoning and other land use controls
 - frontage (water or road)
 - topography, including soil type
 - utilities (water, gas, electric, sewer)
 - cost of extending or installing utilities
 - financing (mortgage back, etcetera)
 - proposed use intended by the grantee at time of acquisition and present use
 - whether it is a contingency sale based on future development of individual lots - the adjustments must not be excessive in relation to the type of property being appraised and the market data available.
 - v. Sales from neighboring towns may be used if necessary, providing that adjustments are made for different market characteristics, zoning, and other relevant factors.
- b. Cost of Development Approach - Where the direct sales approach cannot account for the development potential of the subject property, determine the value of the property by use of the development less costs method (a/k/a "cost of development" or "anticipated use" method). Where such method is employed, include the following steps and information:
- i. Determination of the gross sales value of each lot within the subdivision based on data collected by the direct sales approach, and determination of the net value to the developer after deducting costs (e.g., engineering, construction, marketing, legal, financial and other carrying costs), as well as a percentage for the developer's profit (i.e., return on investment). In determining net value to the developer, extreme care must be exercised in estimating annual cash flow: front end costs may make the use of averages inappropriate. Also, the discount rate must primarily reflect the discounted current value of future income. The risk factor in a theoretical subdivision must be accounted for in the developer's profit rather than in the discount rate.
 - ii. Confirmation of cost figures with professionals in the pertinent field and with local developers.
 - iii. Substantiation of development capacity of the subject property through engineering reports and land use planning.
 - iv. If a separate land planning element of the Report is not prepared, a sketch or plan showing the subdivision of the subject property to illustrate the number, location and size of the lots upon which the Report is based must be included.

c. Value Comparison and Summary

- i. The estimate of value arrived at by means of the Development Approach should be compared on a per acre basis with the value arrived at by the Direct Sales Comparison Approach.
- ii. If the values do not closely agree, the reason for the divergence must be fully explained.

This section may be omitted if the Appraiser determines that use of the market approach is inappropriate; provided, however, the Report clearly states the reasons for such determination.

- C. Value Estimate by Cost Approach: This section must be in the form of commutative data concerning construction or building materials arranged in sequence (*i.e.*, original cost, depreciation, and current values) and including reproduction or replacement cost, and must state the source (book and page if a national service) of all figures used. If an acquisition by eminent domain is possible, the Appraiser should employ a cost estimator or engineer to determine the cost new. The dollar amounts of physical deterioration and functional and economic obsolescence, or the omission of same, should be explained in narrative form. This procedure may be omitted on improvements, both real and personal, for which only a salvage or scrap value is estimated.

This section may be omitted if the Appraiser determines that use of the cost approach is inappropriate; provided, however, the Report clearly states the reasons for such determination.

- D. Value Estimate by Income Approach: This section of the Report must include adequate factual data to support each figure and factor used and must be arranged in detailed form to show at least (a) estimated gross economic rent or income, (b) allowances for vacancy and credit losses; and (c) itemized estimate of total expenses, including reserves for replacements. All data must be source documented and justified. In reference to comparable rental properties, include the name of the lessor, the lessee, the terms and date of the lease, and verification thereof.

Capitalization of net income must be based upon the type of property and location similar to the subject property. The capitalization technique, method and rate used should be fully explained in narrative form, supported by a statement of sources of rates and factors. Include adequate documentation to support the income, expenses, interest rate, remaining economic life and capitalization rate. Where it is determined that the economic rental income is different from the existing or contract income, the increase or decrease must be explained and supported by market information.

This section may be omitted if the Appraiser determines that use of the income approach is inappropriate; provided, however, the Report clearly states the reasons for such determination.

- E. Interpretation and Correlation of Estimates: Interpret the foregoing estimates and should state the reasons why one or more of the conclusions reached are indicative of the market value of the property. Include a summary of the data seen by the Appraiser to be most pertinent to the appraisal assignment. A clear explanation of how the data are interpreted, weighted and mathematically treated to reach the value conclusion must be provided.
- F. Less than Fee Acquisitions: Where the appraisal assignment is for determination of the value of less than fee interests in land (*e.g.*, conservation restrictions), the Appraiser must determine the value of this interest by use of the before and after method. The Appraiser must fully detail the analysis of the highest and best use of the subject property without the restriction or easement as described herein, and clearly explain any changes in the highest and best use after imposition of the restriction or easement.
- G. Severance Damages: If the property being appraised is a partial acquisition or taking, or is a separate parcel but physically contiguous to other land of the owner, or is under the same ownership but physically non-contiguous to other land of the owner (but which may add value to the non-contiguous parcel, *e.g.*, by providing access to a body of water), severance damages must be fully described and discussed. The

method of value estimation should be the before and after method. The amount of the severance damages should be determined mathematically as well as described in narrative form.

- H. Enhancement: The Appraiser should investigate and determine whether the acquisition will enhance the value of the remaining property of the owner. If so, the method of value estimation must be the before-and-after method. The Report must set forth the enhancement value separately, with a full discussion and analysis of the factors giving rise to the enhancement.
- I. Changes in Valuation Caused by the Public Use or Improvement: Notwithstanding subsections F. and G. above, any change in the fair market value of real property prior to the date of valuation caused by the public use or improvement for which such property will be acquired, or by the likelihood that the property would be acquired for such use or improvement, will be disregarded in determining fair market value of the property.

V. EXHIBITS AND ADDENDA TO BE INCLUDED IN EACH REPORT

All maps and plans may be bound as facing pages opposite the description, tabulation or discussions they concern.

- A. Subject Location Map (within the city or area)
- B. Comparative Map Data (show geographic location of the subject property and the comparative parcels analyzed).
- C. Detail of the Comparative Data
 - a. Color Photograph of the Property (in the case of unimproved woodland, a photograph across the frontage showing the road frontage and surrounding area)
 - b. Grantor
 - c. Grantee
 - d. Date of Sale
 - e. Recording Data
 - f. Source of Information
 - g. Breakdown of Sales Price
 - i. amount to land
 - ii. amount to improvements
 - h. Terms of Sale
 - i. Improvements at Time of Sale
 - j. Use of property
 - k. Zoning
 - l. Description of property
 - i. size
 - ii. shape
 - iii. amount of frontage
 - iv. topography
 - v. utilities available
 - vi. amenities
 - vii. assessed value
- D. Plot Plan: The plot plan should include the approximate location of any improvements, easements, right of ways, flood plain zoning lines, and/or other encumbrances that exist or have been placed upon the property.
- E. Deed
- F. Floor Plans (when needed to explain the value estimates)
- G. Flood Plain Zoning Map (where applicable)
- H. Local Zoning (excerpts as required to support the appraisal)
- I. References (detail the sources from which the Appraiser drew information contained in the Report. Where information is from an office or individual, the appraiser should identify the name, address, capacity and telephone number of the source of such information. Also list junior appraisers, researcher, etc. who assisted in preparation of the report)
- J. Other Pertinent Exhibits (e.g., timber cruise, land planning report, engineering report)
- K. A Resume of Qualifications (for all appraisers and other experts contributing to the determination of value in the Report).
- L. Owner's Property Inspection Certificate: The appraiser must invite the landowner or his or her representative to accompany the appraiser during inspection of the property. To allow the landowner time to make the necessary arrangements, the invitation should be made appropriately in advance of the planned inspection date. Reasonable efforts should be made to include the landowner or his or her representative in the inspection. The appraiser should consider any information the landowner may provide which is relevant to the issue of the value of the property inspected. However, the appraiser must use his or her best judgment as to the usefulness of any information provided by the landowner. See Exhibit 2.

VI. REPORTS OTHER THAN COMPLETE, SELF-CONTAINED

Reports other than Complete, Self-Contained appraisal reports must be prepared in compliance with the then current Uniform Standards of Professional Appraisal Practice (USPAP). Such reports may include complete appraisals in Summary or Restricted reports, or limited appraisals in Self-Contained, Summary or Restricted reports.

EXHIBIT I

CERTIFICATE OF VALUE

OWNER(S):

ADDRESS/LOCATION OF PROPERTY:

I, _____ HEREBY CERTIFY THE FOLLOWING: THAT ON _____, I PERSONALLY MADE A FIELD INSPECTION OF THE PROPERTY HEREIN APPRAISED AND HAVE AFFORDED THE OWNER THE OPPORTUNITY TO ACCOMPANY ME ON THIS INSPECTION;

That to the best of my knowledge and belief, the statements contained in the appraisal here set forth are true, and the information upon which the opinions expressed herein are based in correct, subject to the limiting conditions therein set forth;

That I understand that such appraisal may be used in connection with acquisition of the subject property by the City/Town of Massachusetts;

That such appraisal has been made in conformity with the appropriate state laws, regulations, policies, specifications and procedures;

That neither my employment nor my compensation for making this appraisal and report are in any way contingent upon the values reported herein;

That I have no direct or indirect present or contemplated future personal interest in such property or in any benefit from the acquisition of such property appraised; and

THAT MY OPINION OF THE VALUE OF THE PROPERTY AFFECTED BY THE PROPOSED ACQUISITION OR TAKING, AS OF THE _____ DAY OF _____, 20__ IS _____, AND THAT THE CONCLUSIONS SET FORTH IN THIS APPRAISAL ARE BASED UPON THE EXERCISE OF MY INDEPENDENT PROFESSIONAL JUDGMENT.

SIGNATURE _____

DATE _____

EXHIBIT 2: OWNER'S PROPERTY INSPECTION CERTIFICATE

1. _____ ()
Name(s) of Supposed Owner(s) Telephone Number with Area Code
- Address
Town/City State Area Code
2. Please check appropriate line
- _____ I wish to accompany the appraiser on an inspection of my property.
- _____ I wish to have my representative accompany the appraiser(s) on an inspection of my property. (Please fill in Item 3.)
- _____ I do not wish to accompany the appraiser(s) on an inspection of my property.
3. _____ ()
Name of Authorized Representative Telephone Number with Area Code
- Address
Town/City State Area Code
4. The following individuals and/or entities occupy the premises in accordance with an agreement as indicated (lease, life estate, etc.):
- a. _____ b. _____
Name of Individual or Entity Name of Individual or Entity
- _____
Occupied Premises Occupied Premises
- _____
Type of Agreement Type of Agreement
5. I certify that I have given the above-referenced tenants or occupants notice of the appraiser's inspection of the property.
- _____
Name(s) of Supposed Owner(s)
6. I hereby authorize the appraiser to enter and inspect the property, after reasonable notice, for the purposes of preparing an appraisal.
- _____
Owner's Signature Date

Attachment D: Requirements for acquisition projects funded through the Community Preservation Act (CPA)

The Community Preservation Act (CPA) states that land acquired with these funds is to be bound by a permanent restriction. Property acquired with the help of the DWSP grant program is protected Article 97 conservation land, however, this does not supersede the requirements of the Community Preservation Act. The CPA requires that, for fee acquisitions, the municipality convey a c. 184 CR to a qualified 501(c)(3) organization whose purpose is land and/or water conservation (e.g., land trusts). It may not be an internal deed restriction. Fulfillment of the CPA is the responsibility of the municipality; while it is desirable that all transactions related to a project be completed by the end of the fiscal year, conveyance of a CR to a qualified entity is not a requirement for reimbursement under this grant program.

Conveying a conservation restriction over open space normally would trigger the formal Article 97 disposition process requiring a 2/3 vote of the legislature. However, for guidance, EEA refers municipalities to the opinion of the Massachusetts Land Trust Coalition Attorney Referral Panel that states: "If a municipality acquires property under the CPA statute, it is required to impose a restriction on the property as a matter of law and thus the imposition of the restriction should be considered part of an integrated plan for dealing with the property. Therefore, the imposition of the restriction should not be considered a disposition of an interest in the property within the meaning of Article 97."¹ All municipalities should seek final advice on this issue from its town counsel or its city solicitor.

Points to remember when conveying a Conservation Restriction:

1. At the same time that it votes to acquire the property, the municipality should vote to authorize the grant of the CR and also indicate that the purchase of the property and conveyance of the CR be a simultaneous closing.
2. The deed to the municipality should indicate that the municipality may grant a CR to the specific entity identified to hold it or to an entity authorized to hold a CR under M.G.L. c. 184.
3. As long as a restriction is recorded **after** the recording of the deed of acquisition (even if immediately after), the unrestricted value (and therefore higher value) of the property is used for funding determinations in DCS grant programs.
4. The fact that the funding statute *requires* the restriction may mean that a party seeking a charitable contribution deduction in connection with a bargain sale of property may not be able to use the unrestricted value of the property in calculating the tax benefit.
5. The "proceeds" clause of the conservation restriction, if conveyed at no cost to the grantee, must provide that the municipality (as the fee owner) receives all of the proceeds of an extinguishment or taking, and the grantee receives none of such proceeds. In the event that the land ever is converted to non-conservation use, the municipality would still be responsible for replacing the converted property with land of equal or greater monetary value and conservation use and described in the Program Regulations, as though the land were owned in fee simple. Applicants should consult with DCS for guidance on drafting conservation restrictions for the appropriate language.

¹ Attorney Greg Bialecki and the Attorney Referral Panel of the Massachusetts Land Trust Coalition – Visit the Massachusetts Land Trust Coalition website at www.massland.org, or <http://www.massland.org/pages/resources/legaladvisory3.html> for this legal advisory.